



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

NR0142E1

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23<sup>rd</sup> Session

O. Fr.

H-11

Brussels, 13 February 2001.

POSSIBLE AMENDMENT OF NOTE 5 (B) TO CHAPTER 85

(Item III.A.7 on Agenda)

Reference documents :

NC0077E1 (HSC/23)  
NC0090E2, Annex IJ/14, paragraph 6 (HSC/23 - Report)  
NR0119E1 (RSC/22)  
NR0133E2, Annex D/9 (RSC/22 - Report)  
NC0340E2, Annex E/1, paragraph 25 (HSC/26 - Report)

I. BACKGROUND

1. At its 26<sup>th</sup> Session, in November 2000, the Harmonized System Committee noted that the Review Sub-Committee was to examine the possible amendment of Note 5 (B) to Chapter 85 aimed at mentioning new processes such as printing and etching for obtaining passive elements of the hybrid integrated circuits of heading 85.42.
2. It should be recalled that, in the context of a classification question (cf. doc. NC0090E2, Annex IJ/4, paragraph 5 - HSC/23, Report), it was found that if the passive elements of hybrid integrated circuits are not obtained by thin or thick film circuit technology they are no longer covered by the legal definition in Note 5 (B) to Chapter 85 concerning articles of heading 85.42.
3. Accordingly, the question arises as to whether the provisions of Note 5 (B) to Chapter 85 should be updated to take modern technologies into account.

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## II. SECRETARIAT COMMENTS

4. First of all, the Secretariat notes that when this document was published it had not yet received any proposals in this connection from administrations.
5. The Secretariat also observes that, at its last session, the Sub-Committee agreed to return to this question on the basis of information arising out of the examination of the classification of certain SIMM (*Single Inline Memory Module*) and DIMM (*Dual Inline Memory Module*) memory modules. In this connection, it should be noted that, in principle, this question will be discussed at the HSC's 27<sup>th</sup> Session in May 2001.
6. However, subject to any further developments arising out of the study, the Secretariat considers that it would be useful to review the main aspects that currently characterize the classification of integrated circuits as defined by Note 5 (B) to Chapter 85.
7. Firstly, the Secretariat would draw the Sub-Committee's attention to the fact that the limitative scope of the definition of the articles concerned is intended to give the heading, in the words of the last sentence of Note 5 to Chapter 85, "precedence over any other heading in the Nomenclature which might cover them by reference to, in particular, their function".
8. Moreover, according to the Explanatory Note to heading 85.42, Part I, Item (2), last paragraph, page 1517, "the components forming a hybrid integrated circuit must be combined **to all intents and purposes indivisibly**, i.e., though some of the elements could theoretically be removed and replaced, this would be a long and delicate task which would be uneconomic under normal manufacturing conditions".
9. This leads the Secretariat to inquire whether printing and etching, given that these are the two processes directly at issue in the present context, are of a nature such that they may be considered to deviate from the provision cited above. The Secretariat finds it unlikely that the lithographic process or etching would allow the integrated circuit to be divided up "economically".
10. According to certain technical manuals that the Secretariat has consulted, including the "Electronics Engineers Handbook" (by Donald Christiansen, pub. D.G. Fink, 4th Edition, 1997), the manufacture of integrated circuits comprises four main stages : (1) starting material processes, which produce the polished silicon wafer; (2) lithographic imaging processes, which replicate the integrated circuit pattern geometries on the various wafer surfaces; (3) deposition and growth processes, wherein various layers of semiconductive materials are formed on the wafer; and (4) etching operations, in which selective removal or addition of the deposited or grown layers is effected.
11. Moreover, in view of the above information, the Secretariat is inclined to think that the interest in the production process is increasingly tending to lose its importance.
12. However, it is clear that the line of demarcation between the integrated circuits of heading 85.42, on the one hand, and electronic microcircuits specially designed as parts of a particular kind of machine (memories for automatic data processing machines, for example) should be clearly established to facilitate their respective classification in the HS.

13. Given the above, particularly the information and ideas expressed in paragraphs 8, 10 and 11, the Secretariat is of the view that Note 5 (B) to Chapter 85 should be simplified by deleting the references to thin or thick film technology rather than adding references for other technologies. The Sub-Committee is invited to express its views on this new approach to revising Note 5 (B).
14. Finally, the Secretariat also points out that in the course of this new review cycle, the Review Sub-Committee is to re-examine the question of equipment for the manufacture of semiconductor devices and flat-panel displays (cf. Annex F/1, paragraph 3, to Doc. NC0090E1 - HSC/23, Report). It is also possible that this study will throw further light on the evolution of integrated circuit manufacturing technology, including in the field of processors, considering that in this case the circuits are highly integrated (their specific task being, according to a general definition, to perform programmed logical functions and arithmetical calculations).

### III. CONCLUSION

15. The Sub-Committee is invited to rule on the framework within which the study concerning the definition of integrated circuits covered by heading 85.42 under Note 5 (B) to Chapter 85 is to be pursued, taking into account the comments made above by the Secretariat and, in particular, the new approach proposed in paragraph 13.
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